

SENATE BILL No. 577

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-30; IC 21-48; IC 21-49; IC 6-3-2-21; IC 4-30-11-9.

Synopsis: Lottery. Authorizes the state lottery commission, the Indiana gaming commission, and the Indiana finance authority to enter into a management agreement for the operation of the lottery. Establishes the Hoosier hope scholarship program. Establishes the world class scholar program. Makes an appropriation.

Effective: Upon passage.

Merritt

January 23, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 577

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-30-1-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 1. The purpose of this article is
3 to establish lottery games in Indiana that are the best available and that
4 enable the people of Indiana to benefit from significant additional
5 money:

6 (1) to encourage outstanding Indiana students to pursue
7 higher education opportunities within Indiana and to enter
8 Indiana's workforce after graduation;

9 (2) to accelerate Indiana's growth by providing challenge
10 grants to state educational institutions to support the
11 recruitment and retention of world class scholars; and

12 (3) for capital improvements.

13 SECTION 2. IC 4-30-1-2 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE UPON PASSAGE]: Sec. 2. In construing this article, it
15 is the intent of the general assembly that the following policies be
16 carried out:

17 (1) That the lottery games be operated ~~by~~ **as provided in this**



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1 **article.**

2 **(2) That** the state lottery commission ~~which~~ is created by
3 IC 4-30-3 as a separate body politic and corporate from state
4 government ~~and~~ should function as much as possible as an
5 entrepreneurial business enterprise.

6 ~~(2)~~ **(3)** That the general assembly recognizes that the operation of
7 a lottery is a unique activity for state government and that policies
8 and procedures appropriate for the performance of other
9 governmental functions are not necessarily appropriate for the
10 operation of a lottery.

11 ~~(3)~~ **(4)** That the lottery games be operated as a self-supporting
12 revenue raising operation.

13 ~~(4)~~ **(5)** That the commission be accountable to the general
14 assembly and the people of Indiana through a system of audits and
15 reports and by complying with financial disclosure, open
16 meetings, and public record laws.

17 ~~(5)~~ **(6)** That the commission ensure the equitable participation of
18 minorities and women in all phases of the lottery, including
19 instant game and online retailers and vendors. The commission
20 shall establish annual goals:

21 (A) for the use of minority and women's business enterprises
22 (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3) in
23 construction, professional services, other services, and
24 supplies; and

25 (B) derived from a statistical analysis of utilization study of
26 lottery contracts that are required to be updated every five (5)
27 years.

28 The commission shall, in cooperation with the Indiana department
29 of administration, adopt rules under IC 4-22-2 to ensure that the
30 goals set under this subdivision are met.

31 ~~(6)~~ **(7)** That lottery game advertising and promotion shall be
32 consistent with the dignity and integrity of the state.

33 **SECTION 3. IC 4-30-1-3 IS ADDED TO THE INDIANA CODE**
34 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
35 **UPON PASSAGE]: Sec. 3. Except as expressly provided in this**
36 **article, rules adopted by the commission under this article do not**
37 **apply to a manager or to lottery operations under a management**
38 **agreement.**

39 **SECTION 4. IC 4-30-2-2 IS AMENDED TO READ AS FOLLOWS**
40 **[EFFECTIVE UPON PASSAGE]: Sec. 2. "Commission" refers to:**

41 **(1) the state lottery commission; or**

42 **(2) a successor agency, unless the context clearly denotes**

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otherwise.

SECTION 5. IC 4-30-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Director" refers to the director of the commission **or the executive director of a successor agency.**

SECTION 6. IC 4-30-2-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.2. "Gaming commission" means the Indiana gaming commission established under IC 4-33-3.**

SECTION 7. IC 4-30-2-5.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.3. "Management agreement" means an agreement under which a manager will manage the lottery on behalf of the commission.**

SECTION 8. IC 4-30-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. "Manager" means an entity formed under IC 4-30-20.**

SECTION 9. IC 4-30-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "Retailer" means a person who sells lottery tickets ~~on behalf of the commission~~ **with the commission or a manager.**

SECTION 10. IC 4-30-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Vendor" means a person who provides or proposes to provide goods or services to the commission **or a manager.** The term does not include an employee of the commission, **a manager**, a retailer, or a state agency.

SECTION 11. IC 4-30-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. "Video lottery game" means an electronically simulated game of chance that is displayed on the screen or video monitor of a video lottery terminal.**

SECTION 12. IC 4-30-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. There is created a state lottery commission as a body politic and corporate separate from the state. The commission is composed of five (5) members selected as provided in IC 4-30-4. The commission has the **powers and duties set forth in this article, including the** authority to sue and be sued in the name of the commission and to adopt a commission seal and symbol. The commission shall supervise and administer the operation of the Indiana state lottery in accordance with this article.

SECTION 13. IC 4-30-3-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The commission shall maintain, **or require a manager to maintain**, weekly or more frequent records of lottery transactions, including the distribution of tickets to retailers, revenue received, claims for prizes, prizes paid, and other financial transactions of the ~~commission~~ **lottery**.

SECTION 14. IC 4-30-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The commission shall conduct, **or require a manager to conduct**, market research as necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game and an analysis of advertising, promotion, public relations, incentives, and other aspects of communications.

SECTION 15. IC 4-30-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commission may:

(1) promote and advertise the lottery; **or**

(2) authorize a manager to promote and advertise the lottery.

(b) A promotion may refer to the total lottery prize, even though the prize may be paid over a period of years.

(c) The commission may:

(1) act as a retailer and conduct promotions involving the dispensing of free lottery tickets; **or**

(2) authorize a manager to act as a retailer and conduct promotions involving the dispensing of free tickets.

(d) The director may:

(1) authorize a sales incentive program for employees of the commission for the purpose of increasing the sales volume and distribution of lottery tickets; **or**

(2) authorize a manager to develop a sales incentive program for:

(A) retailers;

(B) employees of the manager; or

(C) both clauses (A) and (B);

for the purpose of increasing the sales volume and distribution of lottery tickets.

SECTION 16. IC 4-30-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The commission may:

(1) charge fees; **or**

(2) authorize a manager to charge fees;

to persons applying for a contract as a vendor or retailer. The fees must be reasonably calculated to cover the costs of investigations and other

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activities related to the processing of the application.

SECTION 17. IC 4-30-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The commission may:

(1) enter into contracts; or

(2) **authorize a manager to enter into contracts;**

with retailers under this article to provide adequate and convenient availability of tickets to the public for each game.

SECTION 18. IC 4-30-3-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) This section applies only to contributions made after May 31, 2007.

(b) The definitions set forth in IC 3-5-2 apply to this section.

(c) As used in this section, "candidate" refers only to the following:

(1) A candidate for a state office.

(2) A candidate for a legislative office.

(3) A candidate for a local office.

(d) As used in this section, "committee" refers to any of the following:

(1) A candidate's committee.

(2) A regular party committee.

(3) A committee organized by a legislative caucus of the house of the general assembly.

(4) A committee organized by a legislative caucus of the senate of the general assembly.

(e) As used in this section, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

(f) For purposes of this section, a person is considered to have an interest in a manager if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in the manager.

(2) The person is an officer of the manager.

(3) The person is an officer of a person that holds at least a one percent (1%) interest in the manager.

(4) The person is a political action committee of the manager.

(g) A manager is considered to have made a contribution under this section if a contribution is made by a person who has an

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1 interest in the manager.

2 (h) A manager or person who has an interest in a manager may
3 not make a contribution to a candidate or a committee during the
4 following periods:

5 (1) The term during which a manager is a party to a
6 management agreement entered into under this article.

7 (2) The three (3) years following the final expiration or
8 termination of the management agreement described in
9 subdivision (1).

10 (i) A person who knowingly or intentionally violates this section
11 commits a Class D felony.

12 SECTION 19. IC 4-30-3-21 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 21. (a) On the effective date of the first
15 management agreement entered into under this article, the
16 following apply:

17 (1) All powers, duties, and liabilities of the state lottery
18 commission are transferred to the gaming commission as the
19 successor agency, except as otherwise provided in this article.

20 (2) All records and property of the state lottery commission,
21 including appropriations and other funds under its control or
22 supervision, are transferred to the gaming commission as the
23 successor agency, except as otherwise provided in this article.

24 (3) An amount owed to the state lottery commission before the
25 effective date of the management agreement must be paid to
26 and collected by the gaming commission as the successor
27 agency, except as otherwise provided in the first management
28 agreement.

29 (4) A reference to the state lottery commission in a statute,
30 rule, or other document is considered a reference to the
31 gaming commission as the successor agency, unless the
32 context clearly denotes otherwise.

33 (b) As the successor agency, the gaming commission may
34 employ investigators and other staff necessary to carry out this
35 article. The employees hired by the commission under this article
36 may be the same as the commission's employees hired under
37 IC 4-33.

38 (c) The gaming commission may exercise any of its powers
39 under this article or IC 4-33 as necessary or desirable for the
40 performance of the commission's duties and the execution of the
41 commission's powers under this article.

42 SECTION 20. IC 4-30-6-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The ~~division of security commission~~ shall conduct investigations of vendors, retailers, and employees of the commission, ~~or a manager~~, including applicants for contracts or employment, necessary to ensure the security and integrity of the operation of the lottery. The commission may require persons subject to an investigation to provide any information, including fingerprints, that is needed by the state police department to carry out the investigation or that is otherwise necessary to facilitate access to state and criminal history information.

SECTION 21. IC 4-30-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The state police department shall provide:

(1) assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary lottery operations; and

(2) any other assistance that may be requested by the ~~director commission~~ and agreed to by the superintendent of the state police department.

(b) Any other state agency, including the department of state revenue and the professional licensing agency, shall upon request provide the ~~lottery~~ commission with information relevant to an investigation conducted under this article. The commission shall reimburse an agency for the actual cost of providing assistance under this section.

SECTION 22. IC 4-30-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) This section does not apply if the commission enters into a management agreement.**

~~(a)~~ **(b)** After the first full year of ticket sales to the public or sooner if the director considers necessary, the commission shall engage an independent firm experienced in security procedures, including computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the operation of the division of security.

~~(b)~~ **(c)** The part of the security report containing the overall evaluation of the commission shall be presented to the commission and the governor. Any part of the security report containing information protected from disclosure by IC 5-14-3 shall not be disclosed by the commission or by the governor.

~~(c)~~ **(d)** After the initial security study, similar studies of security shall be conducted as the commission determines to be appropriate but at least once every two (2) years.

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SECTION 23. IC 4-30-6-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) If the commission enters into a management agreement, the manager shall implement a security program as provided in the management agreement.**

(b) After the first anniversary of the effective date of a management agreement, or sooner if the director considers necessary, the commission shall engage an independent firm experienced in security procedures, including computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the manager's lottery operations.

(c) The part of the security report containing the overall evaluation of the manager shall be presented to the commission and the governor. Any part of the security report containing information protected from disclosure by IC 5-14-3 shall not be disclosed by the commission or by the governor.

(d) After the security study described in subsection (b), similar studies of security shall be conducted as the commission determines to be appropriate but at least once every two (2) years.

SECTION 24. IC 4-30-7-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) This section applies to retailer contracts after the effective date of a management agreement.**

(b) If:

- (1) an application of an applicant to become a retailer for any type of lottery game is denied;**
- (2) an application to renew a retailer contract is denied;**
- (3) an application to change ownership or location is denied;**
- or**
- (4) the certificate of authority of a retailer is revoked;**

by the manager, the retailer or applicant may appeal the decision under rules established by the commission. A decision by the commission or a manager with respect to a retailer contract is not subject to IC 4-21.5.

(c) This section does not prohibit a retailer from continuing to perform under a retailer contract while an appeal is pending. The manager may not delay payment to a retailer of undisputed amounts as a result of the filing of an appeal under rules established by the commission. However, this right to continue to operate does not apply to a retailer if the commission declares in a decision that an emergency exists that requires the immediate

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1 **termination of the contract and certificate.**

2 SECTION 25. IC 4-30-8-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The
4 commission may enter into contracts for the purchase, lease, or
5 lease-purchase of goods or services necessary to carry out this article.
6 The commission may ~~not contract with any person or entity for the total~~
7 ~~operation and administration of the lottery established by this article;~~
8 ~~but may~~ enter into contracts and make purchases that integrate
9 functions such as lottery game design, supply of goods and services,
10 and advertisement.

11 **(b) The commission may authorize a manager to:**

12 **(1) enter into contracts for the purchase, lease, or**
13 **lease-purchase of goods or services necessary to carry out this**
14 **article; and**

15 **(2) enter into contracts and make purchases that integrate**
16 **functions, such as lottery game design, supply of goods and**
17 **services, and advertisement.**

18 **Contracts and purchases under this subsection are not subject to**
19 **IC 5-22.**

20 ~~(b)~~ **(c)** In all procurement decisions, the director, or the commission,
21 if the commission chooses to make the decision, **or a manager, if**
22 **authorized by the commission**, shall take into account the particularly
23 sensitive nature of the lottery and shall consider the competence,
24 quality of product, experience, and timely performance of the vendors
25 in order to promote and ensure security, honesty, fairness, and integrity
26 in the operation and administration of the lottery and the objective of
27 raising net revenues for the benefit of the public purposes described in
28 this article.

29 SECTION 26. IC 4-30-8-2 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The ~~division of~~
31 **security commission** shall investigate the financial responsibility,
32 security, and integrity of a person who submits a bid, proposal, or offer
33 as part of a major procurement. At a minimum, each person must
34 disclose at the time of submitting a bid, proposal, or offer to the
35 commission **or a manager** all of the following items:

36 **(1) A disclosure of the vendor's name and address and the names**
37 **and addresses of the following:**

38 **(A) If the vendor is a corporation, the officers, directors, and**
39 **each stockholder in the corporation, except that in the case of**
40 **owners of equity securities of a publicly traded corporation**
41 **only the names and addresses of those known to the**
42 **corporation to own beneficially at least five percent (5%) in**

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equity securities need be disclosed.

(B) If the vendor is a trust, the trustees and all persons entitled to receive income or benefits from the trust.

(C) If the vendor is an association, the members, officers, and directors.

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.

(2) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of that business for each state or jurisdiction.

(3) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including lottery goods and services, and of the nature of the goods and services involved for each state or jurisdiction.

(4) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked or terminated a gaming license or contract of any kind and of the disposition in each state or jurisdiction. If a gaming license or contract has been revoked or terminated or has not been renewed or a gaming license application or contract bid has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying this failure to receive a license or contract must be disclosed.

(5) A tax clearance statement from the department of state revenue certifying that the vendor is not on the most recent tax warrant list.

(6) A disclosure of the details of a conviction or judgment of a state or federal court of the vendor of a felony or any other criminal offense other than a traffic violation.

(7) A disclosure of the details of a bankruptcy, an insolvency, a reorganization, or any pending litigation of the vendor.

(8) If a vendor subcontracts part of the work to be performed, the vendor shall disclose all the information required by this chapter for the subcontractor as if the subcontractor were a vendor.

(9) Additional disclosures and information the commission determines appropriate for the procurement involved.

SECTION 27. IC 4-30-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A contract for a major procurement with a vendor that does not comply with the disclosure requirements described in section 2 of this chapter may not be entered into and is not enforceable. A contract with a vendor who

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does not comply with the requirements for periodically updating the disclosures during the tenure of the contract as specified in the contract may be terminated by the commission **or by the manager**. This section shall be construed broadly and liberally to achieve full disclosure of all information necessary to allow for a full and complete evaluation by the commission of the competence, integrity, background, and character of vendors for major procurement.

SECTION 28. IC 4-30-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.5. Licensing of Lottery Vendors

Sec. 1. This chapter applies to a major procurement if a management agreement is in effect.

Sec. 2. As used in this chapter, "licensed vendor" means a person issued a vendor's license under this chapter.

Sec. 3. As used in this chapter, "vendor's license" means a license issued by the commission under this chapter.

Sec. 4. (a) A person may not sell, lease, provide, or contract to sell, lease, or provide any of the following equipment, supplies, or services to a manager unless the person holds a vendor's license:

- (1) Printing of tickets to be used in a lottery game.**
- (2) Consultation services related to the design or operation of games offered in the lottery.**
- (3) Any goods and services involving any of the following:**
 - (A) The official recording for lottery game play purposes of a player's selection in a lottery game involving player selections.**
 - (B) The receiving of a player's selections directly from a player in a lottery game involving player selections.**
 - (C) The drawing, determination, or generation of winners in lottery games.**
 - (D) The security services required for the operation of the lottery.**

(b) Lottery supplies and equipment may not be distributed unless the lottery supplies and equipment conform to standards adopted by the commission under this chapter.

Sec. 5. The commission may issue a vendor's license under this chapter to a person if:

- (1) the person has:**
 - (A) applied for the vendor's license;**
 - (B) paid a nonrefundable application fee set by the commission;**

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(C) paid an annual license fee set by the commission; and
 (D) submitted the following on forms provided by the
 commission:

(i) if the applicant is an individual, two (2) sets of the
 individual's fingerprints; and

(ii) if the applicant is not an individual, two (2) sets of
 fingerprints for each officer of the applicant; and

(2) the commission has determined that the applicant is
 eligible for a vendor's license.

Sec. 6. A person may not receive a vendor's license if:

(1) the person has been convicted of a felony under Indiana
 law, the laws of any other state, or laws of the United States;

(2) the person has knowingly or intentionally submitted an
 application for a license under this chapter that contains false
 information;

(3) the person is a member of the commission or the Indiana
 gaming commission;

(4) the person is an officer, a director, or a managerial
 employee of a person described in subdivision (1) or (2);

(5) the person employs an individual who:

(A) is described in subdivision (1), (2), or (3); and

(B) participates in the management or operation of the
 lottery;

(6) a license issued to the person:

(A) under this article or IC 4-33; or

(B) to supply gaming supplies in another jurisdiction;
 has been revoked.

**Sec. 7. The following information submitted, collected, or
 gathered as part of an application to the commission for a vendor's
 license is confidential for purposes of IC 5-14-3-4:**

(1) Any information concerning a minor child of an applicant.

(2) The Social Security number of an applicant or the spouse
 of an applicant.

(3) The home telephone number of an applicant or the spouse
 of an applicant.

(4) An applicant's birth certificate.

(5) An applicant's driver's license number.

(6) The name or address of a previous spouse of the applicant.

(7) The date of birth of an applicant or the spouse of an
 applicant.

(8) The place of birth of an applicant or the spouse of an
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(9) The personal financial records of an applicant, the spouse of an applicant, or a minor child of an applicant.

Sec. 8. (a) A licensed vendor shall furnish to the commission a list of all equipment, devices, supplies, and services provided to a manager in connection with the lottery authorized under this article.

(b) A licensed vendor shall keep books and records for the furnishing of equipment, devices, supplies, and services to the lottery separate from books and records of any other business operated by the licensed vendor.

(c) A licensed vendor shall file a quarterly return with the commission and the manager listing all sales and leases.

Sec. 9. A licensed vendor's equipment, devices, or supplies that are used by a person in an unauthorized gambling or lottery operation shall be forfeited to the state.

Sec. 10. (a) Unless a person's vendor's license is suspended, expires, or is revoked, the vendor's license may be renewed annually upon:

(1) the payment of an annual renewal fee set by the commission; and

(2) a determination by the commission that the licensed vendor is in compliance with this article.

(b) The holder of a vendor's license shall undergo a complete investigation every three (3) years to determine that the licensed vendor is in compliance with this article.

(c) Notwithstanding subsection (b), the commission may investigate the holder of a vendor's license at any time the commission determines it is necessary to ensure that the licensed vendor is in compliance with this article.

(d) The holder of a vendor's license shall bear the cost of an investigation or reinvestigation of the licensed vendor and any investigation resulting from a potential transfer of ownership.

Sec. 11. If a licensed vendor or an employee of a licensed vendor violates this article or engages in a fraudulent act, the commission may do any combination of the following:

(1) Suspend, revoke, or restrict the person's vendor's license.

(2) Require the removal of any employee of a licensed vendor who violates this article or engages in a fraudulent act.

(3) Impose a civil penalty of not more than twenty-five thousand dollars (\$25,000) against a person who has been issued a vendor's license for each violation of this article.

SECTION 29. IC 4-30-9-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In the selection of retailers, the commission **or a manager** shall consider factors such as the following:

- (1) Financial responsibility.
- (2) Integrity.
- (3) Reputation.
- (4) Accessibility of the place of business or activity to the public.
- (5) Security of the premises.
- (6) The sufficiency of existing retailers to serve the public.
- (7) Convenience.
- (8) The projected volume of sales for the lottery game involved.

(b) In consideration of the factors in subsection (a), the commission, **or a manager if a management agreement is in effect**, may require the information it considers necessary of any person proposing to enter into a retailer's contract. However, the commission may not:

- (1) establish a limitation on the number of retailers; ~~and~~ **or**
- (2) **permit a manager to establish a limitation on the number of retailers.**

The commission or manager shall make every effort to include small business participation as retailers. Retailer selections shall be based on business considerations and public convenience. Retailers shall be selected without regard to political affiliation.

SECTION 30. IC 4-30-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The commission may not contract with a person as a retailer that:

- (1) is less than eighteen (18) years of age;
- (2) is engaged exclusively in the business of selling lottery tickets, although this **subsection** does not preclude the commission **or a manager** from selling lottery tickets;
- (3) is on the most recent tax warrant list provided to the commission **or a manager** by the department of state revenue;
- (4) has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding ten (10) years, regardless of adjudication, unless the commission determines that:
 - (A) the person has been pardoned or the person's civil rights have been restored;
 - (B) subsequent to the conviction or entry of the plea the person has engaged in the kind of law abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or
 - (C) if the person is a firm, an association, a partnership, a trust,

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a corporation, a limited liability company, or other entity, the person has terminated its relationship with the individual whose actions directly contributed to the person's conviction or entry of the plea; or

(5) is:

- (A) a department, an agency, a commission, a division, an authority, a board, a bureau, a hospital, or an office of the state, including a state institution of postsecondary education;
- (B) an entity that performs an essential governmental function;
- (C) part of the judicial department of government;
- (D) part of the legislative department of government; or
- (E) a political subdivision of the state, including an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, or other similar body of a political subdivision.

(b) The commission may not authorize a manager to enter into a retailer's contract with a person described in subsection (a).

SECTION 31. IC 4-30-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** The commission shall issue a certificate of authority to each ~~person with whom it contracts~~ as a retailer for purposes of display under section 6 of this chapter. The issuance of a certificate does not confer upon the retailer any right apart from that specifically granted in the contract. The authority to act as a retailer is not assignable or transferable.

(b) The commission may authorize a manager to issue a certificate described in subsection (a) if a management agreement is in effect.

SECTION 32. IC 4-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A contract executed by the commission **or a manager** under this chapter must specify the reasons for a suspension or termination of the contract, ~~by the commission,~~ including the following:

- (1) Commission of a violation **of this article or of a rule** adopted under this article.
- (2) Failure to accurately account for lottery tickets, revenues, or prizes as required by the ~~commission:~~ **contract.**
- (3) Commission of a fraud, deceit, or misrepresentation.
- (4) Insufficient sale of tickets.
- (5) Conduct prejudicial to public confidence in the lottery.
- (6) A material change in a matter considered by the commission **or a manager** executing the contract with the retailer.

SECTION 33. IC 4-30-9-6 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Each retailer
 2 shall post and keep conspicuously displayed in a location on the
 3 premises accessible to the public the following:

4 (1) Its certificate of authority.

5 (2) With respect to each game, a statement supplied by the
 6 commission **or a manager** of the estimated odds of winning a
 7 prize for the game.

8 SECTION 34. IC 4-30-9-7 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Before the
 10 commission **or a manager** may enter into a contract with a retailer, the
 11 retailer must provide a tax clearance statement from the department of
 12 state revenue that certifies that the retailer does not owe delinquent
 13 state taxes.

14 SECTION 35. IC 4-30-9-8 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A contract with
 16 a retailer may not authorize the sale of lottery tickets at more than one
 17 (1) location. The commission, **or the manager if a management**
 18 **agreement is in effect**, may enter into more than one (1) contract with
 19 a retailer that has more than one (1) business location. A retailer must
 20 have a separate certificate of authority to sell lottery tickets for each
 21 business location approved by the commission **or the manager**. A
 22 retailer may sell lottery tickets only at the location stated on the
 23 certificate of authority.

24 SECTION 36. IC 4-30-9-9 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. With respect to
 26 a retailer whose rental payments for premises are contractually
 27 computed in whole or in part on the basis of a percentage of retail sales,
 28 and where the computation of retail sales is not explicitly defined to
 29 include the sale of tickets in a lottery, for purposes of such a
 30 computation the amount of retail sales for lottery tickets by the retailer
 31 may not exceed the amount of the compensation received by the
 32 retailer from the commission **or a manager**.

33 SECTION 37. IC 4-30-9-14 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. A payment by
 35 a retailer to the commission **or a manager** for tickets may not be in
 36 cash. All payments must be in the form of a check, bank draft,
 37 electronic funds transfer, or other financial instrument ~~authorized by~~
 38 ~~the director~~ **specified by the commission or the manager if a**
 39 **management agreement is in effect**.

40 SECTION 38. IC 4-30-10-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. All money
 42 received by each retailer from the operation of the lottery, including all

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ticket sales, interest, gifts, and donations, less the amount retained as compensation for the sale of tickets and the amount paid out as prizes:

- (1) shall be remitted to the commission or deposited in a public depository, at the times and as directed by the commission; **or**
- (2) **if a management agreement is in effect, shall be remitted to the manager or deposited in a public depository, at the times and as directed by the manager.**

The commission **or the manager, as the case may be**, is responsible for all administrative functions related to the receipt of funds ~~The commission and~~ may require each retailer to ~~file with the commission~~ **submit** reports of the retailer's receipts and transactions in the sale of lottery tickets in the form and containing the information ~~the commission requires~~ **required by the retailer's contract and by any rules adopted under this article**. The commission **or the manager** may require any person, including a qualified public depository, to perform any function, activity, or services in connection with the operation that the commission **or manager** determines to be advisable under this article. These functions, activities, or services constitute lawful functions, activities, and services of the person.

SECTION 39. IC 4-30-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The commission **or a manager authorized by the commission** may require retailers to establish separate electronic funds transfer accounts for the purpose of receiving money from ticket sales, making payments to the commission **or manager**, and receiving payments from the commission **or manager, as the case may be**.

SECTION 40. IC 4-30-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Each retailer is liable to:

- (1) the commission; **or**
- (2) **a manager, if a management agreement is in effect;**

for any and all tickets accepted or generated by an employee or representative of that retailer. These tickets are considered to have been purchased by the retailer, unless returned to the commission **or manager** within the time and in the manner prescribed by the ~~commission~~ **retailer's contract or by a rule adopted under this article**.

(b) All money received by retailers from the sale of lottery tickets, less the amount retained as compensation for the sale of the tickets and the amount paid out as prizes by the retailer, shall be held in trust until its:

- (1) delivery to the commission **or a manager**; or

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(2) electronic transfer to the administrative trust fund.

SECTION 41. IC 4-30-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Notwithstanding IC 26-1-9.1-406**, the right of any person to a prize is not assignable. A prize may be paid to the estate of a deceased prize winner or to a person designated under an appropriate judicial order.

SECTION 42. IC 4-30-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A prize may not be paid to a person who is less than eighteen (18) years of age unless the winning ticket was lawfully purchased and made a gift to the minor. In that case the commission shall:

- (1) direct the payment to an adult member of the minor's family or the legal guardian of the minor as custodian for the minor; **or**
- (2) **require a manager to direct the payment to an adult member of the minor's family or the legal guardian of the minor as custodian for the minor.**

The person named as guardian has the same powers and duties as prescribed for a guardian under Indiana guardianship law.

SECTION 43. IC 4-30-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A prize may not be paid if it arises from tickets that are determined to be:

- (1) stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, or unreadable;
 - (2) not received or not recorded by:
 - (A) the commission's applicable deadlines; **or**
 - (B) **the manager's applicable deadlines, if a management agreement is in effect;**
 - (3) lacking in captions that confirm and agree with the lottery play symbols that are appropriate to the lottery game involved; or
 - (4) not in compliance with any additional specific rules and public or confidential validation and security tests of:
 - (A) the commission; **or**
 - (B) **the manager, if a management agreement is in effect;**
- applicable to the particular lottery game involved.

SECTION 44. IC 4-30-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. For the convenience of the public, retailers may be authorized to pay winners an amount not to exceed five hundred ninety-nine dollars (\$599) after performing validation procedures on their premises that are required by:

- (1) the commission; **or**
- (2) **the manager, if a management agreement is in effect;**

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for the lottery game involved.

SECTION 45. IC 4-30-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Holders of lottery tickets are entitled to claim prizes for one hundred eighty (180) days after the drawing or at the end of the lottery game play in which the prize was won. ~~However, with respect to a game in which the player may determine instantly if the player has won or lost, the right to claim prizes exists for sixty (60) days after the end of the lottery game.~~ If a valid claim is not made for a prize within the applicable period, the prize is considered an unclaimed prize for purposes of section 9 of this chapter.

SECTION 46. IC 4-30-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. A prize may not be paid on a ticket that is purchased or sold in violation of this article or to a person who is prohibited from purchasing a lottery ticket under this article. ~~Such a prize is considered an unclaimed prize for purposes of section 9 of this chapter.~~

SECTION 47. IC 4-30-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The commission ~~is and its members and employees are~~ discharged of all liability upon payment of a prize.

(b) If a management agreement is in effect, the manager and its directors, officers, employees, agents, and equity holders are discharged of all liability upon payment of a prize.

(c) If an annuity is purchased by a manager to cover the payment of a prize and is assigned to a prize winner, the following are relieved of any liability to the prize winner:

(1) The state.

(2) The commission and its members and employees.

(3) The manager and its directors, officers, employees, agents, and equity holders.

SECTION 48. IC 4-30-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The treasurer of state, the department of state revenue, the department of administration, the Indiana department of transportation, the attorney general, and the courts shall identify to the commission, **or to the manager, if a management agreement is in effect**, in the form and format prescribed by the commission and approved by the auditor of state, a person who:

(1) owes an outstanding debt to a state agency;

(2) owes delinquent state taxes; or

(3) owes child support collected and paid to a recipient through

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1 a court.

2 (b) Before the payment of a prize of more than five hundred
3 ninety-nine dollars (\$599) to a claimant identified under subsection (a),
4 the commission **or the manager, if a management agreement is in**
5 **effect**, shall transmit the prize money to the auditor of state who shall
6 authorize payment of the balance to the prize winner after deduction of
7 the obligation. If a prize winner owes multiple obligations subject to
8 offset under this section and the prize is insufficient to cover all
9 obligations, the amount of the prize shall be applied as follows:

10 (1) First, to the child support obligations owed by the prize winner
11 that are collected and paid to a recipient through a court.

12 (2) Second, to judgments owed by the prize winner.

13 (3) Third, to tax liens owed by the prize winner.

14 (4) Fourth, to unsecured debts owed by the prize winner.

15 Within each of the categories described in subdivisions (1) through (4),
16 the amount and priority of the prize shall be applied in the manner that
17 the auditor of state determines to be appropriate. The commission shall
18 reimburse the auditor of state pursuant to an agreement under
19 IC 4-30-15-5 for the expenses incurred by the auditor of state in
20 carrying out the duties required by this section. **If a management**
21 **agreement is in effect, the manager shall reimburse the auditor of state in**
22 **carrying out the duties required by this section.**

24 (c) As used in this section, "debt" means an obligation that is
25 ~~evidence~~ **evidenced** by an assessment or lien issued by a state agency,
26 a judgment, or a final order of an administrative agency.

27 SECTION 49. IC 4-30-12-2 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A member
29 or employee of the commission or a relative living in the same
30 household with a member or employee of the commission may not
31 purchase a lottery ticket.

32 **(b) A director, an officer, or an employee of a manager or a**
33 **relative living in the same household with a director, an officer, or**
34 **an employee of a manager may not purchase a lottery ticket.**

35 SECTION 50. IC 4-30-12-3 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. An officer or
37 employee of a vendor that:

38 (1) is providing major procurement goods or services to the
39 commission **or a manager**; or

40 (2) has executed a contract for a major procurement;
41 or a relative living in the same household with an officer or employee
42 of the vendor may not purchase a lottery ticket.

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SECTION 51. IC 4-30-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who knowingly:

- (1) sells a lottery ticket and is not authorized by the commission, **a manager**, or this article to engage in such a sale;
- (2) sells a lottery ticket to a minor; or
- (3) sells a lottery ticket at a price other than that established by the commission **or a manager**;

commits a Class A misdemeanor.

SECTION 52. IC 4-30-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A person who uses point-of-sale material issued by the commission **or a manager** or otherwise represents that the person is a retailer without being under contract with the commission **or a manager** to act as a retailer commits a Class A misdemeanor.

SECTION 53. IC 4-30-15.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 15.5. Management Agreement Trust Fund

Sec. 1. (a) The management agreement trust fund is established to provide money:

- (1) for the transfers required under section 5 of this chapter; and**
- (2) to pay any amounts required under IC 4-30-21-23.**

(b) The state lottery commission shall hold, administer, and manage the fund.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the following:

- (1) Money received from a manager under IC 4-30-21.**
- (2) Appropriations, if any, from the general assembly.**
- (3) Grants and gifts intended for deposit in the fund.**
- (4) Interest, premiums, gains, or other earnings on the fund.**

(e) The state lottery commission shall establish the following accounts within the fund:

- (1) The Hoosier hope account.**
- (2) The management agreement royalty account.**

Sec. 2. Notwithstanding IC 5-13, the state lottery commission shall invest the money in the management agreement trust fund that is not needed to meet the obligations of the fund in the manner provided by an investment policy established by resolution of the commission.

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1 **Sec. 3. The management agreement trust fund is not part of the**
 2 **state treasury and is considered a trust fund for purposes of**
 3 **IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise**
 4 **removed from the fund by the state board of finance, the budget**
 5 **agency, or any other state agency.**

6 **Sec. 4. Money in the management agreement trust fund at the**
 7 **end of a state fiscal year does not revert to the state general fund.**

8 **Sec. 5. (a) Before the last business day of January, April, July,**
 9 **and October, the state lottery commission shall transfer the**
 10 **revenue in the management agreement trust fund as follows:**

11 (1) Seven million five hundred thousand dollars (\$7,500,000)
 12 to be deposited in the pension stabilization fund established
 13 under IC 5-10.4-2-5 to be used as a credit against the
 14 unfunded accrued liability of the pre-1996 account (as defined
 15 in IC 5-10.4-1-12) of the Indiana state teachers' retirement
 16 fund.

17 (2) Two million five hundred thousand dollars (\$2,500,000) to
 18 be deposited in the "k" portion of the pension relief fund
 19 established under IC 5-10.3-11.

20 (3) Five million dollars (\$5,000,000) to be deposited in the
 21 "m" portion of the pension relief fund established under
 22 IC 5-10.3-11.

23 (4) Thirty-five million dollars (\$35,000,000) to be deposited in
 24 the build Indiana fund established under IC 4-30-17.

25 (b) To make the transfers required by subsection (a), the
 26 commission may transfer money from the Hoosier hope account or
 27 the lottery management royalty account, or both, as long as the
 28 aggregate amount transferred and the amount transferred to each
 29 fund specified in subsection (a) meet the requirements of
 30 subsection (a).

31 (c) Money remaining in the lottery management agreement trust
 32 fund at the end of a state fiscal year exceeding the amount of:

33 (1) the transfers required under subsection (a); and

34 (2) the payments required under IC 4-30-21-23;

35 must be transferred to the Hoosier hope scholarship fund
 36 established under IC 21-48-5.

37 SECTION 54. IC 4-30-16-1 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **Subject to the**
 39 **terms of a management agreement**, the money in the administrative
 40 trust fund shall be used for the following:

41 (1) To pay prizes.

42 (2) To pay the expenses for the operation of the lottery, including

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1 setting aside an amount determined by the commission to be
 2 necessary for the cash flow needs of the commission. These
 3 expenses include all costs incurred in the operation and
 4 administration of the lottery and all costs resulting from any
 5 contracts entered into for the purchase or lease of goods and
 6 services required by the lottery, including the following:

7 (A) The compensation paid to retailers.

8 (B) The costs of supplies, materials, tickets, independent audit
 9 services, independent studies, data transmission, advertising,
 10 promotion, incentives, public relations, communications,
 11 security, bonding for retailers, printing, distribution of tickets,
 12 and reimbursing other governmental entities for services
 13 provided to the lottery.

14 (C) The costs of any other goods and services necessary for
 15 carrying out this article.

16 (3) To make transfers of the revenue remaining after making the
 17 payments necessary under subdivisions (1) and (2) (referred to as
 18 "surplus revenue" in this article) to the treasurer of state for
 19 deposit as provided in this chapter.

20 SECTION 55. IC 4-30-16-3, AS AMENDED BY P.L.2-2006,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 UPON PASSAGE]: Sec. 3. (a) **Subject to the terms of a management**
 23 **agreement**, the commission shall transfer the surplus revenue in the
 24 administrative trust fund as follows:

25 (1) Before the last business day of January, April, July, and
 26 October, the commission shall transfer to the treasurer of state, for
 27 deposit in the Indiana state teachers' retirement fund
 28 (IC 5-10.4-2), seven million five hundred thousand dollars
 29 (\$7,500,000). Notwithstanding any other law, including any
 30 appropriations law resulting from a budget bill (as defined in
 31 IC 4-12-1-2), the money transferred under this subdivision shall
 32 be set aside in the pension stabilization fund (IC 5-10.4-2-5) to be
 33 used as a credit against the unfunded accrued liability of the
 34 pre-1996 account (as defined in IC 5-10.4-1-12) of the Indiana
 35 state teachers' retirement fund. The money transferred is in
 36 addition to the appropriation needed to pay benefits for the state
 37 fiscal year.

38 (2) Before the last business day of January, April, July, and
 39 October, the commission shall transfer:

40 (A) two million five hundred thousand dollars (\$2,500,000) of
 41 the surplus revenue to the treasurer of state for deposit in the
 42 "k" portion of the pension relief fund (IC 5-10.3-11); and

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(B) five million dollars (\$5,000,000) of the surplus revenue to the treasurer of state for deposit in the "m" portion of the pension relief fund (IC 5-10.3-11).

(3) The surplus revenue remaining in the fund on the last day of January, April, July, and October after the transfers under subdivisions (1) and (2) shall be transferred by the commission to the treasurer of state for deposit on that day in the build Indiana fund.

(b) **Subject to the terms of a management agreement**, the commission may make transfers to the treasurer of state more frequently than required by subsection (a). However, the number of transfers does not affect the amount that is required to be transferred for the purposes listed in subsection (a)(1) and (a)(2). Any amount transferred during the month in excess of the amount required to be transferred for the purposes listed in subsection (a)(1) and (a)(2) shall be transferred to the build Indiana fund.

SECTION 56. IC 4-30-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This article does not authorize any lottery except the lottery operated **under this article:**

(1) by the commission; ~~under this article;~~ or

(2) **on behalf of the commission by a manager under a management agreement.**

SECTION 57. IC 4-30-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Local governmental authority concerning all matters relating to the operation of a lottery are preempted by the state, and a county, municipality, or other political subdivision of the state may not enact an ordinance relating to the operation of the lottery authorized by this article. However, this section does not prohibit a political subdivision of the state from requiring a retailer to obtain an occupational license for any business unrelated to the sale of lottery tickets.

(b) **A county, municipality, or other political subdivision may not take any action that would have the effect of impairing a management agreement.**

SECTION 58. IC 4-30-19-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **If the commission enters into a management agreement under this article, the manager shall undergo an audit of its annual financial statements under the terms of the management agreement.**

(b) **To assure the integrity of the lottery and compliance with this article and the management agreement, the commission may**

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1 require, at any time, a special audit of a manager to be conducted
 2 by an independent certified public accountant licensed in Indiana.
 3 The scope, procedures, and reporting requirements of the audit
 4 must be set forth in the management agreement.

5 (c) An audit required by this section must be prepared at the
 6 expense of the manager.

7 SECTION 59. IC 4-30-20 IS ADDED TO THE INDIANA CODE
 8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 9 UPON PASSAGE]:

10 **Chapter 20. Lottery Manager**

11 **Sec. 1.** The legislative intent for this chapter is to provide a
 12 means for the formation of an entity to serve as a manager of the
 13 lottery under a management agreement authorized under this
 14 article.

15 **Sec. 2.** The purpose of an entity formed under this chapter is
 16 limited to:

17 (1) entering into and performing a management agreement
 18 under this article; and

19 (2) the activities incidental or related to the accomplishment
 20 of the purposes permitted under subdivision (1).

21 **Sec. 3. (a)** One (1) or more persons may form an entity to serve
 22 as a manager by filing articles of incorporation with the secretary
 23 of state under IC 23-1. An entity formed under this subsection has
 24 the powers and privileges of other corporations, except where
 25 inconsistent with the text and purpose of this chapter. IC 23-1
 26 applies to an entity formed under this subsection to the extent the
 27 provisions do not conflict with this chapter.

28 (b) One (1) or more persons may form an entity to serve as a
 29 manager by filing articles of organization with the secretary of
 30 state under IC 23-18. An entity formed under this subsection has
 31 the powers and privileges of other limited liability companies and
 32 is subject to the duties, restrictions, and liabilities of other limited
 33 liability companies, except where inconsistent with the text and
 34 purpose of this chapter. IC 23-18 applies to an entity formed under
 35 this subsection to the extent the provisions do not conflict with this
 36 chapter.

37 SECTION 60. IC 4-30-21 IS ADDED TO THE INDIANA CODE
 38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]:

40 **Chapter 21. Lottery Management Agreement**

41 **Sec. 1.** In construing this chapter, it is the intent of the general
 42 assembly that the manager be accountable to the general assembly

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and the people of Indiana through a system of audits and reports and by complying with the financial disclosure requirements of this chapter. The powers conferred by this chapter are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this chapter, this chapter is controlling as to any management agreement entered into under this chapter.

Sec. 2. This chapter contains full and complete authority for a management agreement between the contracting agencies and an entity formed under IC 4-30-20. Except as provided in this chapter, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the contracting agencies or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the contracting agencies to enter into a management agreement under this article.

Sec. 3. As used in this chapter, "authority" means the Indiana finance authority established under IC 4-4-11.

Sec. 4. As used in this chapter, "contracting agencies" means the commission, the gaming commission, and the authority.

Sec. 5. As used in this chapter, "control" means the power to exercise authority over or to direct the management and policies of an individual, a business, or any other entity.

Sec. 6. As used in this chapter, "financial statement" means any of the following:

- (1) Balance sheet.
- (2) Income statement.
- (3) Profit and loss statement.
- (4) Statement of cash flow.
- (5) Sources and uses of funds statements.
- (6) Notes to financial statements.

Sec. 7. As used in this chapter, "offeror" means a person that responds to a request for qualifications under this chapter.

Sec. 8. As used in this chapter, "request for qualifications" means all materials and documents prepared by the commission or the authority on behalf of the commission to solicit the following from offerors:

- (1) statements of qualifications; and
- (2) proposals to enter into a management agreement.

Sec. 9. As used in this chapter, "selected offer" refers to the final offer of an offeror that is the preliminary selection of the authority to be the manager for the lottery under section 19 of this chapter.

Sec. 10. Subject to the other provisions of this chapter, the

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contracting agencies may enter into a management agreement with a manager for an initial term not to exceed thirty (30) years.

Sec. 11. The contracting parties may not enter into a management agreement that authorizes a manager to operate any of the following games or a game simulating any of the following games:

(1) Keno.

(2) Video lottery games.

(3) Pari-mutuel wagering on horse or dog racing.

(4) A game in which winners are selected on the results of a race or sporting event.

(5) Any other game commonly considered to be a form of gambling that is not:

(A) a game; or

(B) a variation of a game;

that the commission has the authority to approve under this article.

Sec. 12. (a) The management agreement must establish a benchmark amount of at least one billion dollars (\$1,000,000,000) for deposit in the Hoosier hope trust fund established by IC 21-48-6-1 and the world class scholars fund established by IC 21-49-6-1. The management agreement must require the manager to make an initial payment to the treasurer of state on the effective date of the management agreement in an amount that exceeds the benchmark amount established in the management agreement.

(b) The treasurer of state shall deposit the initial payment required under subsection (a) as follows:

(1) An amount equal to sixty percent (60%) of the benchmark amount must be deposited in the Hoosier hope trust fund established by IC 21-48-6-1.

(2) An amount equal to forty percent (40%) of the benchmark amount must be deposited in the world class scholars fund established by IC 21-49-6-1.

(3) The remainder of the initial payment, if any, must be deposited in the Hoosier hope account of the management agreement trust fund established by IC 4-30-15.5-1.

Sec. 13. The management agreement must require the manager to pay a royalty to the treasurer of state four (4) times each year beginning on a date specified in the management agreement. The method for determining the amount of the royalty paid under this section shall be established in the management agreement and shall

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1 provide sufficient revenue to permit the state lottery commission
 2 to make the transfers required under IC 4-30-15.5-5. The treasurer
 3 of state shall deposit the payments received under this section in
 4 the management agreement royalty account established under
 5 IC 4-30-15.5-1.

6 **Sec. 14. A management agreement must address the following:**

- 7 (1) The original term of the management agreement.
- 8 (2) A requirement that the manager be formed under
- 9 IC 4-30-20.
- 10 (3) A requirement that the manager locate its principal office
- 11 within Indiana.
- 12 (4) The transition of rights and obligations from the
- 13 commission to the manager with respect to the operation of
- 14 the lottery, including:
 - 15 (A) the right to use, or ownership of, equipment and other
 - 16 assets used in the operation of the lottery; and
 - 17 (B) the rights and obligations under contracts with
 - 18 retailers and vendors.
- 19 (5) The implementation of a comprehensive security program
- 20 by the manager.
- 21 (6) The implementation of a comprehensive system of internal
- 22 audits.
- 23 (7) The implementation of a program by the manager to curb
- 24 compulsive gambling by persons playing the lottery.
- 25 (8) A system for determining the following:
 - 26 (A) The type of lottery games to be conducted.
 - 27 (B) The method of selecting winning tickets.
 - 28 (C) The manner of payment of prizes to holders of winning
 - 29 tickets.
 - 30 (D) The frequency of drawings of winning tickets.
 - 31 (E) The method to be used in selling tickets.
- 32 (9) A system for verifying the validity of tickets claimed to be
- 33 winning tickets.
- 34 (10) The basis upon which retailer fees are established by the
- 35 manager.
- 36 (11) Minimum payouts.
- 37 (12) A requirement that advertising and promotion be
- 38 consistent with the dignity and integrity of the state.
- 39 (13) The establishment of a code of ethics for officers and
- 40 employees of the manager.
- 41 (14) Monitoring of the manager's practices by the commission
- 42 and the taking of actions by the commission that it considers

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appropriate to ensure that the manager is in compliance with the terms of the management agreement.

(15) The requirement that the manager periodically file appropriate financial statements in a form and manner acceptable to the commission.

(16) Cash reserve requirements.

(17) Procedural requirements for obtaining approval by the commission when a management agreement, or an interest in a management agreement, is sold, assigned, or otherwise transferred, or pledged as collateral to secure financing.

(18) Grounds for termination of the management agreement by the commission or a manager.

(19) Procedures for amendment of the management agreement.

(20) A provision prohibiting the contracting agencies from entering into another management agreement under this article as long as the management agreement has not been terminated.

(21) The transition of rights and obligations, including any associated equipment or other assets used in the operation of the lottery, from the manager to any successor manager of the lottery, including the commission, following the termination of or foreclosure upon the management agreement.

(22) Ownership of all copyrights, trademarks, and service marks by the commission in the name of the state.

Sec. 15. (a) A manager shall undergo a complete investigation every three (3) years by the commission to determine that the manager remains in compliance with this article and the management agreement.

(b) The manager shall bear the cost of an investigation or reinvestigation of the manager.

Sec. 16. (a) Before the contracting agencies enter into a management agreement under this chapter, a request for qualifications must be issued as set forth in this chapter. A request for qualifications for a management agreement may be issued in one (1) or more phases.

(b) A request for qualifications must include the following:

(1) The factors or criteria that will be used in evaluating an offeror's statement of qualifications and proposal.

(2) A statement that a proposal must be accompanied by evidence of the offeror's financial responsibility.

(3) A statement concerning whether discussions may be

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1 conducted with the offerors for the purpose of clarification to
 2 assure full understanding of and responsiveness to the
 3 solicitation requirements.

4 (4) A statement concerning any other information to be
 5 considered in evaluating the offeror's qualifications and
 6 proposal.

7 (5) A statement that, except as otherwise required by law or
 8 under order from a court with jurisdiction, the contents of an
 9 offeror's response to a request for qualifications shall not be
 10 disclosed during:

11 (A) discussions; or

12 (B) negotiations;

13 with offerors to other offerors.

14 (c) Notice of a request for qualifications shall be published two
 15 (2) times in accordance with IC 5-3-1 at least one (1) week apart,
 16 with the second publication made at least seven (7) days before any
 17 initial submission is due.

18 (d) As provided in a request for qualifications, discussions may
 19 be conducted with the offerors for the purpose of clarification to
 20 assure full understanding of and responsiveness to the solicitation
 21 requirements.

22 (e) Eligible offerors must be accorded fair and equal treatment
 23 with respect to any opportunity for discussion and revision of
 24 proposals.

25 Sec. 17. (a) The authority may not disclose the contents of
 26 proposals during discussions or negotiations with eligible offerors.

27 (b) The authority may, in its discretion in accordance with
 28 IC 5-14-3, treat as confidential all records relating to discussions
 29 or negotiations between the authority and eligible offerors if those
 30 records are created while discussions or negotiations are in
 31 progress.

32 (c) Notwithstanding subsections (a) and (b), and with the
 33 exception of parts that are confidential under IC 5-14-3, the terms
 34 of the selected offer negotiated under this article shall be available
 35 for inspection and copying under IC 5-14-3 after negotiations with
 36 the offerors have been completed.

37 (d) When disclosing the terms of the selected offer under
 38 subsection (c), the authority shall certify that the information being
 39 disclosed accurately and completely represents the terms of the
 40 selected offer.

41 (e) The authority shall disclose the contents of all proposals,
 42 except the parts of any proposal that may be treated as confidential

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in accordance with IC 5-14-3, when either:

- (1) the request for qualifications process is terminated under section 19 of this chapter; or
- (2) the management agreement has been executed and the closing for each financing transaction required to provide funding to carry out the management agreement has been conducted.

Sec. 18. (a) The authority may negotiate with one (1) or more offerors who the authority determines are responsible and reasonably capable of managing the lottery and may seek to obtain a final offer from one (1) or more of those offerors.

(b) The authority shall consider the following among the factors in making a determination under this section:

- (1) The offeror's expertise, qualifications, competence, skills, and plan to perform its obligations under the management agreement in accordance with the management agreement.
- (2) The financial strength of the responsible offeror, including its capitalization and available financial resources.
- (3) The experience of the offeror in operating government authorized lotteries and gaming and other similar projects and the quality of the offeror's past or present performance on other similar or equivalent engagements.
- (4) The integrity, background, and reputation of the offeror.

(c) The requirements set forth in subsection (b) also apply to the approval of any successor manager.

Sec. 19. (a) After the final offers from offerors have been negotiated under section 18 of this chapter, the authority shall, on behalf of the commission:

- (1) make a preliminary selection of an offeror as a manager for the lottery; or
- (2) terminate the request for qualifications process.

(b) If the authority makes a preliminary selection of a manager under this section, the commission shall schedule a public hearing on the preliminary selection and publish notice of the hearing one (1) time in accordance with IC 5-3-1 at least seven (7) days before the hearing. The notice must include the following:

- (1) The date, time, and place of the hearing.
- (2) The subject matter of the hearing.
- (3) A brief description of the management agreement to be awarded.
- (4) The identity of the offeror that has been preliminarily selected as a manager.

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(5) The address and telephone number of the commission.

(6) A statement indicating that, subject to section 17 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and an explanation of the basis upon which the preliminary selection was made are available for public inspection and copying at the principal office of the commission during regular business hours.

(c) Subject to section 17 of this chapter, and except for those parts that are confidential under IC 5-14-3, the selected offer and a written explanation of the basis upon which the preliminary selection was made shall be made available for inspection and copying in accordance with IC 5-14-3 at least seven (7) days before the hearing scheduled under this subsection.

(d) At the hearing, the commission shall allow the public to be heard on the preliminary selection.

Sec. 20. (a) After the hearing required under section 19 of this chapter, the commission shall determine if a management agreement should be entered with the offeror that submitted the selected offer. If the commission makes a favorable determination, the commission shall submit the determination to the governor and the budget committee.

(b) After review of the commission's determination by the budget committee, the governor may accept or reject the determination of the commission. If the governor accepts the commission's determination, the governor shall designate the offeror who submitted the selected offer as a manager for the lottery. The commission shall publish notice of the designation of a manager for the lottery one (1) time in accordance with IC 5-3-1.

(c) After the governor designates a manager, the contracting agencies may execute a management agreement with the designated manager.

Sec. 21. A manager may finance its obligations with respect to the lottery and the management agreement in the amounts and upon the terms and conditions determined by the manager. However, any bonds, debt, other securities, or other financing issued for the purposes of this section shall not be considered to constitute a debt of the state or any political subdivision of the state or a pledge of the faith and credit of the state or any political subdivision of the state.

Sec. 22. An action to contest the validity of a management agreement entered into under this chapter:

(1) may not be brought after the fifteenth day following the

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publication of the notice of the designation of a manager under the management agreement as provided in section 20 of this chapter; and

(2) is governed by IC 34-13-5.

Sec. 23. (a) A contracting agency may exercise any powers provided under this chapter in participation or cooperation with another contracting agency or any other governmental entity and enter into any contracts to facilitate that participation or cooperation without compliance with any other statute.

(b) A contracting agency may make and enter into all contracts and agreements necessary or incidental to the performance of the contracting agency's duties under this chapter and the execution of the contracting agency's powers under this article. These contracts or agreements are not subject to any approvals other than the approval of the contracting agency that enters into the contract or agreement, and may be for any term of years and contain any terms that are considered reasonable by the contracting agency.

(c) A contracting agency and any state agency may make and enter into all contracts and agreements necessary or incidental to the performance of the duties and the execution of the powers granted to the contracting agency or the state agency in accordance with this chapter or the management agreement. These contracts or agreements are not subject to any approvals other than the approval of the contracting agency or the state agency that enters into the contract or agreement, and may be for any term of years and contain any terms that are considered reasonable by the contracting agency or the state agency.

(d) The commission may pay any amounts owed by the commission under a management agreement entered into under this chapter from any funds available to the commission under this chapter or any other statute.

(e) The commission may borrow money from the authority to pay any amounts owed under this section or to reimburse funds made available under this section. The loan agreement or financing agreement must plainly state that it is not an indebtedness of the state but constitutes a corporate obligation solely of the state lottery commission and is payable solely from revenues of the state lottery commission, including money in the management agreement trust fund established by IC 4-30-15.5-1, the proceeds of future loan agreements or other financing agreements, or an appropriation from the general assembly that might be made to the state lottery commission for that purpose.

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(f) Subject to review by the budget committee and approval by the budget director, a management agreement, a loan agreement, or any other financing agreement entered into under this chapter may:

(1) establish a procedure for the commission or a person acting on behalf of the commission to certify to the general assembly the amount needed to pay any amounts owed by the commission under the management agreement, the loan agreement, or any other financing agreement under this chapter; or

(2) create a moral obligation of the state to pay any amounts owed by the commission under the management agreement, the loan agreement, or any other financing agreement under this chapter.

Sec. 24. The authority may exercise any of its powers under IC 4-4-11 or any other law as necessary or desirable for the execution of the authority's powers under this chapter. Notwithstanding any provisions in IC 4-4-10.9 or IC 4-4-11, the authority may issue bonds under IC 4-4-11 or any other statute to make a loan to the commission for:

(1) any amounts owed by the commission; or

(2) funds made available by the commission; under this chapter.

Sec. 25. (a) The general assembly finds that it is in the interest of the state of Indiana and the bodies corporate and politic established by state law that the general assembly provide means from time to time to fund and finance payment and reimbursement obligations under contracts and other agreements, including a management agreement, loan agreements, and other financing agreements under this chapter.

(b) In addition to its other purposes, the authority shall exist and operate for the purpose of providing means to finance payment and reimbursement obligations under management agreements, loan agreements, and other financing agreements under this chapter.

SECTION 61. IC 6-3-2-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) As used in this section, "recipient" has the meaning set forth in IC 21-48-2-13.

(b) As used in this section, "Hoosier hope grant" has the meaning set forth in IC 21-48-2-8.

(c) The amount of a recipient's obligation to repay a Hoosier

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hope grant that is deferred or waived in a particular taxable year under IC 21-48-4 is exempt from the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 as income of the recipient.

SECTION 62. IC 21-48 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 48. HOOSIER HOPE SCHOLARSHIP

Chapter 1. Legislative Findings

Sec. 1. The general assembly finds the following:

(1) Forty-five percent (45%) of all students graduating from a public college or university in Indiana with a postsecondary degree leave Indiana upon graduation.

(2) Indiana ranks forty-fourth among all states for its share of residents at least twenty-five (25) years of age who have a baccalaureate degree.

(3) As current workers reach retirement age and Indiana's economy continues to change to meet the demands of the twenty-first century, Indiana employers will need an increasing number of highly educated workers.

(4) A scholarship program that encourages outstanding students to pursue higher education opportunities within this state and to enter this state's workforce in their chosen field of study upon graduation will improve the overall quality of life for all Indiana residents and stimulate economic growth in this state.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Academic year" has the meaning set forth in IC 20-12-21-3(1).

Sec. 3. "Applicant" means a student in grade twelve (12) who applies for acceptance into the Hoosier hope scholars program.

Sec. 4. "Commission" means the state student assistance commission established by IC 20-12-21-4.

Sec. 5. "Eligible institution of higher learning" means:

(1) a state educational institution (as defined in IC 20-12-0.5-1); or

(2) a private institution of higher education (as defined in IC 20-12-63-3).

Sec. 6. "Full-time student" means an individual enrolled in an eligible institution of higher learning for at least twelve (12) semester credit hours in each enrollment period of an academic

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year at a semester based institution, or an equivalent number of hours at an institution using a different grading period.

Sec. 7. "Fund" means the Hoosier hope scholarship fund established by IC 21-48-5-1.

Sec. 8. "Hoosier hope grant" means the amount of financial assistance awarded under IC 21-48-3 to a recipient in an academic year.

Sec. 9. "Hoosier hope scholar" means an applicant who has been accepted into the Hoosier hope scholars program.

Sec. 10. "Management agreement" has the meaning set forth in IC 4-30-2-5.3.

Sec. 11. "Manager" has the meaning set forth in IC 4-30-2-5.5.

Sec. 12. "Qualified employment" means full-time employment within Indiana as determined under criteria developed by the commission.

Sec. 13. "Recipient" means a Hoosier hope scholar who is awarded a Hoosier hope grant under IC 21-48-3.

Sec. 14. "Trust" means the Hoosier hope trust fund established under IC 21-48-6.

Sec. 15. "Trustee" means a trustee of the Hoosier hope trust fund.

Chapter 3. Hoosier Hope Scholars Program

Sec. 1. The Hoosier hope scholars program is established.

Sec. 2. (a) To be accepted into the Hoosier hope scholars program, an applicant must:

- (1) be a resident of Indiana as determined by the commission;
- (2) be enrolled in grade twelve (12) or its equivalent at:
 - (A) a public or nonpublic accredited school in Indiana; or
 - (B) a nonaccredited nonpublic school in Indiana;
- (3) qualify as an outstanding scholar under the criteria established by the commission;
- (4) intend to pursue a course of study at an eligible institution of higher learning that will lead to a baccalaureate or associate degree;
- (5) intend to reside in Indiana and maintain qualified employment for at least three (3) years following the attainment of a baccalaureate or associate degree; and
- (6) fulfill any other requirements established by the commission.

(b) The commission shall establish criteria for determining whether an applicant is an outstanding scholar. The criteria must include:

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(1) SAT or ACT scores; and

(2) cumulative high school grade point averages.

(c) The commission shall develop criteria governing the acceptance of applicants who are enrolled in a nonaccredited nonpublic school in Indiana.

Sec. 3. (a) A Hoosier hope scholar is eligible to receive an initial Hoosier hope grant in an amount determined under section 5 of this chapter if the student:

(1) enrolls as a full-time student in a baccalaureate or associate degree program at an eligible institution of higher learning in the academic year immediately following the scholar's high school graduation; and

(2) agrees in writing to reside in Indiana and maintain qualified employment for at least three (3) years following the attainment of a baccalaureate or associate degree.

(b) A Hoosier hope scholar who does not enroll at an eligible institution of higher learning in the academic year immediately following the scholar's high school graduation may be granted a deferral by the commission for up to two (2) academic years. The commission shall develop criteria for granting deferrals under this subsection.

Sec. 4. A Hoosier hope grant must be renewed each academic year under procedures developed by the commission. To qualify for a grant renewal under this section, a recipient must:

(1) remain enrolled as a full-time student in a baccalaureate or associate degree program at an eligible institution of higher learning; and

(2) maintain a cumulative grade point average of:

(A) at least 3.0 on a 4.0 grading scale; or

(B) an equivalent average as determined by the recipient's eligible institution of higher learning.

Sec. 5. (a) The commission shall determine the amount of each grant awarded under this chapter.

(b) Subject to section 9 of this chapter, a Hoosier hope scholar enrolled in an associate degree program at an eligible institution of higher learning may be awarded a grant in the amount of two thousand five hundred dollars (\$2,500) per academic year in not more than two (2) consecutive academic years.

(c) Subject to section 9 of this chapter, a Hoosier hope scholar enrolled in a baccalaureate degree program at an eligible institution of higher learning may be awarded a grant in the amount of five thousand dollars (\$5,000) per academic year in not

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more than four (4) consecutive academic years.

(d) Subject to section 9 of this chapter and subsection (e), a Hoosier hope scholar who:

(1) completes or transfers from an associate degree program at an eligible institution of higher learning; and

(2) enrolls in a baccalaureate degree program during the next academic year at an eligible institution of higher learning;

may be awarded up to five thousand dollars (\$5,000) per academic year for two (2) consecutive years that the scholar is enrolled in the baccalaureate degree program and eligible to renew a grant under this chapter.

(e) The total amount of the grants awarded to a Hoosier hope scholar under this chapter may not exceed twenty thousand dollars (\$20,000).

Sec. 6. A Hoosier hope grant may be used by a recipient at any eligible institution of higher learning to defray any qualified higher education expenses (as defined in IC 21-9-2-19.5).

Sec. 7. (a) The amount of a Hoosier hope grant may not be reduced because a recipient receives other scholarships or forms of financial aid.

(b) The amount of any other state financial aid received by a recipient may not be reduced because the recipient receives a Hoosier hope grant.

Sec. 8. (a) The commission shall determine the number of Hoosier hope grants available in an academic year based on the amount of money available in the fund.

(b) Hoosier hope grants shall be awarded on a competitive basis. Subject to subsection (c), priority shall be given to grant renewals under section 4 of this chapter if the number of scholarship applicants exceeds the number of available grants.

(c) Each academic year, the commission shall reserve at least twenty percent (20%) of the available grants for applicants enrolling in an associate degree program at an eligible institution of higher learning. The number of grants reserved under this subsection shall be determined by the commission.

Sec. 9. The commission may from time to time adjust the amounts awarded under section 5 of this chapter to reflect increased tuition costs at state educational institutions.

Chapter 4. Employment Requirements

Sec. 1. (a) A recipient shall repay the commission the total amount of the grants received under this article if the recipient does not:

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(1) complete the specified associate or baccalaureate degree within the time allotted for completing the degree program by the eligible institution of higher learning attended by the recipient; or

(2) except as provided in section 2 of this chapter, reside in Indiana and maintain qualified employment for at least three

(3) consecutive years following the calendar year in which the recipient attained the specified associate or baccalaureate degree.

(b) Except as otherwise provided in this chapter, repayment shall be made to the commission within ten (10) years after the repayment period begins and shall follow a repayment schedule established by the commission.

(c) For purposes of this chapter, the repayment period begins when a recipient:

(1) is no longer enrolled in a degree program at an eligible institution of higher learning and has not attained an associate or a baccalaureate degree;

(2) has attained an associate or a baccalaureate degree but has not made a good faith effort to comply with the recipient's written commitment to reside in Indiana and maintain qualified employment for at least three (3) consecutive years following the calendar year in which the recipient attained the specified associate or baccalaureate degree; or

(3) has been granted a deferment from the repayment obligation by the commission and has not made a good faith effort to comply with the recipient's written commitment to reside in Indiana and maintain qualified employment upon the termination of the deferral period.

Sec. 2. (a) The commission may waive or defer repayment in the event of disability, illness, or other extenuating circumstances, as determined by the commission, that prevent the recipient from fulfilling the employment requirements under this article.

(b) The commission shall grant a deferment from repayment to:

(1) a recipient who is assigned military duty outside Indiana; or

(2) a recipient whose spouse is assigned military duty outside Indiana.

(c) In determining the length of a deferment period granted under this section, the commission shall consider each recipient's individual circumstances and ability to comply with the recipient's written commitment. Deferments shall be granted in twelve (12)

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month increments but may not exceed a total of sixty (60) consecutive months.

Sec. 3. The commission may prorate the amount of repayment required under this chapter if the recipient has attained an associate or a baccalaureate degree and has maintained qualified employment for at least one (1) year following the calendar year in which the recipient attained the specified associate or baccalaureate degree.

Sec. 4. As provided in IC 6-3-2-21, the amount of a repayment that is waived or deferred under this chapter is exempt from taxation under IC 6-3-1 through IC 6-3-7.

Chapter 5. Hoosier Hope Scholarship Fund

Sec. 1. (a) The Hoosier hope scholarship fund is established to provide grants to applicants who qualify under this article.

(b) The commission shall hold, administer, and manage the fund.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the following:

(1) Amounts transferred to the fund under IC 21-48-6.

(2) Appropriations by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

(e) The fund is not part of the state treasury and is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any state agency other than the commission.

(f) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund but remains available to the commission to be used to award grants under this article.

Sec. 2. Money in the fund is continuously appropriated to the commission for the purposes of this article.

Chapter 6. Hoosier Hope Trust Fund

Sec. 1. (a) The commission shall establish a Hoosier hope trust fund to be used for the provision of Hoosier hope grants for the benefit of the people of Indiana.

(b) The trust shall be established as a charitable trust for the benevolent public purpose provided in this section.

(c) The trust consists of money received from a manager under IC 4-30-21-12 and any income that accrues from the investment of that money.

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1 **Sec. 2. The chairman of the authority shall enter into a trust**
 2 **agreement on behalf of the authority with the treasurer of state in**
 3 **conformity with IC 30-4-2-1. Any provision of the trust agreement**
 4 **entered into under this section that is inconsistent with the**
 5 **provisions or intent of this chapter is void and of no further force**
 6 **or effect.**

7 **Sec. 3. A trust established under this chapter must be an**
 8 **irrevocable trust and may not be revoked or terminated by the**
 9 **authority or any other person, nor may it be amended or altered by**
 10 **the authority or any other person. However, the terms of the trust**
 11 **must provide that the trust terminates when no funds remain in the**
 12 **trust.**

13 **Sec. 4. The treasurer of state shall act as the trustee of the trust.**

14 **Sec. 5. (a) The trustee shall:**

15 (1) **administer and manage the trust;**

16 (2) **invest the money in the trust; and**

17 (3) **deposit in the trust any interest that accrues from the**
 18 **investment of these funds.**

19 (b) **Notwithstanding IC 5-13, the trustee shall invest the money**
 20 **in the trust not currently needed to meet the obligations of the trust**
 21 **in the same manner as money is invested by the public employees'**
 22 **retirement fund under IC 5-10.3-5. However, the trustee may not**
 23 **invest the money in the trust in equity securities. The trustee shall**
 24 **also comply with the prudent investor rule set forth in IC 30-4-3.5.**
 25 **The trustee may contract with investment management**
 26 **professionals, investment advisors, and legal counsel to assist in the**
 27 **investment of the trust and may pay the state expenses incurred**
 28 **under those contracts from the trust.**

29 (c) **IC 4-9.1-1-8 and IC 4-9.1-1-9 do not apply to a trust**
 30 **established under this chapter.**

31 (d) **Money in the trust at the end of a state fiscal year does not**
 32 **revert to the state general fund.**

33 **Sec. 6. IC 30-4 (trust code) applies to a trust established under**
 34 **this chapter.**

35 **Sec. 7. (a) The principal of the trust may not be diminished**
 36 **during the term of the trust.**

37 (b) **The income that accrues from investment of the trust shall**
 38 **be deposited in the trust.**

39 (c) **On July 1, 2008, and on July 1 each year thereafter, the**
 40 **treasurer of state shall transfer all interest, premiums, gains, or**
 41 **other earnings accruing to the trust during the preceding state**
 42 **fiscal year to the Hoosier hope scholarship fund.**

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1 **Sec. 8. The statement required under IC 30-4-5-12 is a public**
 2 **record. The attorney general may petition for an accounting as**
 3 **permitted by IC 30-4-5-12.**

4 **Sec. 9. (a) This section applies if a person does any of the**
 5 **following with respect to a trust created under this chapter:**

6 (1) **Commits a breach of the trust.**

7 (2) **Violates the mandate of the trust or trust agreement.**

8 (3) **Violates a duty imposed by this chapter, the trust**
 9 **agreement, or IC 30-4.**

10 (b) **The attorney general may petition a court to impose one (1)**
 11 **or more of the remedies described in IC 30-4-5.5-1.**

12 **Sec. 10. Any records, files, or documents relating to the trust**
 13 **may be examined by the state board of accounts at a time selected**
 14 **by the state board of accounts. The trustee shall upon request of**
 15 **the state board of accounts:**

16 (1) **produce and submit any records, files, or documents**
 17 **related to the trust; and**

18 (2) **assist in every way the state board of accounts in its work**
 19 **in making an examination.**

20 **SECTION 63. IC 21-49 IS ADDED TO THE INDIANA CODE AS**
 21 **A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON**
 22 **PASSAGE]:**

23 **ARTICLE 49. WORLD CLASS SCHOLARS**

24 **Chapter 1. Legislative Findings**

25 **Sec. 1. The general assembly finds the following:**

26 (1) **Indiana's colleges and universities must increasingly**
 27 **compete with higher education institutions in other states and**
 28 **countries to attract the best faculty researchers whose**
 29 **innovations are critical to the creation of high paying jobs and**
 30 **fast growing businesses.**

31 (2) **Indiana is home to great research universities and**
 32 **industries that are highly research and development intensive.**

33 (3) **Indiana does not attract federal research and development**
 34 **funds commensurate with the state's share of national**
 35 **population or economic activity.**

36 (4) **Indiana's universities lack sufficient matching dollars from**
 37 **local sources at a time when federal research and**
 38 **development spending is increasingly predicated on local**
 39 **matching from state, university, business, and foundation**
 40 **sources.**

41 (5) **Providing challenge grants to state institutions of higher**
 42 **learning to support the recruitment and retention of world**

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class scholars to Indiana will accelerate Indiana's growth and attract a greater share of federal research and development dollars.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Applicant" means a state educational institution that submits an application for a grant from the fund.

Sec. 3. "Board" means the world class scholars board established by IC 21-49-4-1.

Sec. 4. "Challenge grant" means a world class scholars grant awarded to a state educational institution under IC 21-49-5.

Sec. 5. "Commission" means the commission for higher education established by IC 20-12-0.5-2.

Sec. 6. "Fund" refers to the world class scholars fund established by IC 21-49-6-1.

Sec. 7. "High technology business" means a business engaged in any of the following:

- (1) Advanced computing.
- (2) Biotechnology.
- (3) Creation of advanced materials.
- (4) Electronic device technology.
- (5) Environmental technology.
- (6) Medical device technology.

Sec. 8. "Management agreement" has the meaning set forth in IC 4-30-2-5.3.

Sec. 9. "Manager" has the meaning set forth in IC 4-30-2-5.5.

Sec. 10. "Private institution of higher education" has the meaning set forth in IC 20-12-63-3.

Sec. 11. "State institution of higher education" means a state educational institution (as defined by IC 20-12-0.5-1) that offers a four (4) year baccalaureate degree.

Sec. 12. "World class scholar" means a principal researcher/investigator or distinguished faculty member of national or international renown who has high academic credentials, demonstrated competence, and experience that meet the criteria established by the board.

Chapter 3. World Class Scholars Program

Sec. 1. The world class scholars program is established to accelerate Indiana's growth by doing the following:

- (1) Providing challenge grants to state institutions of higher education to support the recruitment and retention of world

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class scholars in Indiana.

(2) Providing a source of funding to state educational institutions to establish or enhance research facilities to support scholars and researchers in areas that align with Indiana's statewide economic development strategies.

(3) Increasing the capacity of state institutions of higher education to compete successfully for federal or private research and development funding.

(4) Establishing Indiana as a leading state for scholarship and innovation with an expanding base of research and development.

(5) Facilitating joint efforts and collaborative investments among Indiana's state institutions of higher education, private colleges and universities, private industry, and government.

Chapter 4. World Class Scholars Fund Board

Sec. 1. (a) The world class scholars fund board is established to:

(1) receive, review, and recommend applications for challenge grants under this article; and

(2) develop a ten (10) year plan to distribute the corpus and income of the fund to award challenge grants under this article.

(b) The board is composed of the following ten (10) members:

(1) The governor or the governor's designee.

(2) Nine (9) individuals appointed by the governor.

(c) Members appointed under subsection (b)(2) must include the following:

(1) At least two (2) members with research expertise in science, technology, or engineering who are not affiliated in a professional capacity with an Indiana institution of higher learning.

(2) At least one (1) member with expertise in the arts or humanities who is not affiliated in a professional capacity with an Indiana institution of higher learning.

(3) At least one (1) member representing a high technology business.

(4) At least one (1) member representing a business with high research and development expenditures in Indiana.

(5) At least one (1) member with expertise in economic development.

(6) At least one (1) member with expertise in academic research, technology transfer, or collaborative relationships between the public and private sectors.

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(d) The governor or the governor's designee shall serve as the chairperson of the board.

Sec. 2. (a) The term of office of a member appointed to the board under section 1(b)(2) of this chapter is two (2) years.

(b) Each member holds office for the term of appointment and continues to serve after the expiration of the term until a successor is appointed and qualified. A member is eligible for reappointment.

(c) A member appointed under section 1(b)(2) of this chapter serves at the pleasure of the governor.

Sec. 3. A member of the board may receive a per diem allowance and reimbursement of the member's expenses for serving on the board.

Sec. 4. (a) Six (6) members constitute a quorum for the transaction of business. The affirmative vote of at least six (6) members is necessary for action to be taken by the board.

(b) A board member with a conflict of interest with respect to an application for a grant from the fund shall abstain from any discussion, consideration, or vote on the application.

Sec. 5. Meetings of the board shall be held at the call of the chairperson.

Sec. 6. The commission shall provide staff support for the board.

Sec. 7. The board may use money in the fund to pay administrative expenses incurred by the board under this article.

Chapter 5. World Class Scholar Grants

Sec. 1. A state institution of higher education may apply for one (1) or more challenge grants from the world class scholars fund.

Sec. 2. A challenge grant may be used by a state educational institution to recruit and retain one (1) or more world class scholars to the state educational institution by doing any of the following:

(1) Endowing a chair at the state educational institution.

(2) Establishing or enhancing research facilities and laboratories and providing specialized equipment that is conducive to the conduct of the highest quality of scholarship and research.

(3) Entering into a collaborative arrangement with the private sector, a private educational institution, or another state educational institution to stimulate the transfer of research and technology into marketable products and increase the capacity of the state educational institution to compete successfully for federal or private research and development funding.

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1 **Sec. 3. (a) The board shall establish criteria and an application**
 2 **procedure for awarding challenge grants under this chapter.**

3 **(b) Each application must be evaluated by an expert review**
 4 **panel selected by the board. A panel member may not have a**
 5 **relationship with any private entity or public or private institution**
 6 **of higher learning in Indiana that would constitute a conflict of**
 7 **interest for the panel member.**

8 **Sec. 4. A successful applicant for a challenge grant must be**
 9 **recommended by the board and must provide matching funds in an**
 10 **amount that meets or exceeds the amount of the grant requested by**
 11 **the application.**

12 **Sec. 5. Upon notification that an applicant:**

13 **(1) receives a favorable recommendation under section 4 of**
 14 **this chapter; and**

15 **(2) meets any other criteria established by the board;**
 16 **the commission shall release the funds to the state educational**
 17 **institution. A challenge grant awarded under this section must be**
 18 **used for the purposes permitted under section 2 of this chapter and**
 19 **must be spent according to an expenditure plan developed by the**
 20 **applicant and approved by the board.**

21 **Chapter 6. World Class Scholars Fund**

22 **Sec. 1. (a) The world class scholars fund is established to**
 23 **provide grants to state educational institutions to recruit and**
 24 **retain world class scholars.**

25 **(b) The commission shall hold, administer, and manage the**
 26 **fund.**

27 **(c) Expenses of administering the fund shall be paid from money**
 28 **in the fund.**

29 **(d) The fund consists of the following:**

30 **(1) Money received from a manager under IC 4-30-21-12.**

31 **(2) Appropriations from the general assembly.**

32 **(3) Grants and gifts intended for deposit in the fund.**

33 **(4) Interest, premiums, gains, or other earnings on the fund.**

34 **Sec. 2. Notwithstanding IC 5-13, the treasurer of state shall**
 35 **invest the money in the fund not currently needed to meet the**
 36 **obligations of the fund in the same manner as money is invested by**
 37 **the public employees' retirement fund under IC 5-10.3-5. The**
 38 **treasurer of state shall invest the money in the fund in a manner**
 39 **consistent with the plan developed by the board under**
 40 **IC 21-49-4-1. However, the treasurer of state may not invest the**
 41 **money in the fund in equity securities. The treasurer of state shall**
 42 **also comply with the prudent investor rule set forth in IC 30-4-3.5.**

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1 The treasurer of state may contract with investment management
2 professionals, investment advisors, and legal counsel to assist in the
3 investment of the fund and may pay the state expenses incurred
4 under those contracts from the fund.

5 Sec. 3. The fund is considered a trust fund for purposes of
6 IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise
7 removed from the fund by the state board of finance, the budget
8 agency, or any other state agency.

9 Sec. 4. Money remaining in the fund at the end of a state fiscal
10 year does not revert to the state general fund but remains available
11 to the commission to award grants under this article.

12 Sec. 5. Money in the fund is continuously appropriated to the
13 commission for purposes of this article.

14 SECTION 64. IC 4-30-11-9 IS REPEALED [EFFECTIVE UPON
15 PASSAGE].

16 SECTION 65. [EFFECTIVE UPON PASSAGE] Notwithstanding
17 IC 4-30-8.5, as added by this act, an unlicensed vendor that:

18 (1) is awarded a major procurement contract by the
19 commission before the effective date of a management
20 agreement; and

21 (2) submits an application for a vendor's license;
22 may continue to furnish goods or services for the lottery for not
23 more than one hundred eighty (180) days after the effective date of
24 the management agreement.

25 SECTION 66. [EFFECTIVE UPON PASSAGE] (a) The definitions
26 set forth in IC 4-30-21, as added by this act, apply to this
27 SECTION.

28 (b) If the contracting agencies enter into a management
29 agreement under IC 4-30-21, as added by this act, the Indiana
30 gaming commission shall adopt temporary rules to implement this
31 act in the manner provided for the adoption of emergency rules
32 under IC 4-22-2-37.1.

33 (c) A temporary rule adopted under this SECTION expires on
34 the earliest of the following:

35 (1) The date that another temporary rule adopted under this
36 SECTION supersedes or repeals the previously adopted
37 temporary rule.

38 (2) The date that a permanent rule adopted under IC 4-22-2
39 supersedes or repeals the temporary rule.

40 (3) The date specified in the temporary rule.

41 SECTION 67. [EFFECTIVE UPON PASSAGE] The provisions of
42 this act are severable in the manner provided by IC 1-1-1-8(b).

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1 SECTION 68. [EFFECTIVE UPON PASSAGE] (a) The definitions
 2 set forth in IC 4-30-21 apply to this SECTION.
 3 (b) Actions taken with respect to:
 4 (1) the issuance of a request for qualifications;
 5 (2) the determination of responsible and eligible offerors; and
 6 (3) the preliminary selection of a manager by the authority;
 7 for a management agreement before the effective date of this act
 8 that would have been valid under IC 4-30-21, as added by this act,
 9 are legalized and validated.
 10 SECTION 69. An emergency is declared for this act.

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